

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

JOHN D. CERQUEIRA,

Plaintiff,

v.

AMERICAN AIRLINES, INC.,

Defendant.

Civil Action No: 05-11652-WGY

AFFIDAVIT OF JOSEPH F. SAVAGE, JR.

I, Joseph F. Savage, Jr., state as follows under the pains and penalties of perjury:

1. I am a partner in the law firm of Goodwin Procter LLP, Exchange Place, Boston, Massachusetts 02109, and a member in good standing of the bar of the Commonwealth of Massachusetts and the United States District Court for the District of Massachusetts. I have specialized in complex criminal and civil litigation, including civil rights cases, for more than 25 years. I have been a member of the bar of the Commonwealth of Massachusetts since 1981, when I graduated from University of Virginia Law School, where I was a member of the *Virginia Law Review* and was the Order of the Coif. After law school, I served as a law clerk for the Hon. A. David Mazzone.

2. From 1983-1996 I worked for the U.S. Department of Justice. At the DOJ I prosecuted complex white collar criminal matters including fraud, tax, securities, health care, RICO, Health and Safety Act, money laundering and public corruption matters. I tried approximately 50 cases in U.S. District Courts in Massachusetts, New York, West Virginia and the District of Columbia and was, for a time, Senior Litigation Counsel, which recognizes trial expertise. I was a Senior Trial Counsel for the Office of Independent Counsel for the Michael

Espy matter in 1996 and 1997. As Chief of the Special Prosecutions Unit in the U.S. Attorney's Office in Boston, I was responsible for supervising all civil rights prosecutions and participated personally in those cases.

3. From 1996 to 2004 I was a partner at Testa, Hurwitz & Thibault, LLP. Since 2005, I have been a partner at Goodwin Procter, LLP. My practice focuses on complex civil litigation, white collar criminal defense, and government investigations. I represent companies and individuals in civil litigation, especially complex commercial disputes. I have been active in civil rights activities, including serving as the Chairman of the New England Innocence Project, former chair of the Federal Bar Association Criminal Justice Section, former co-chair of the Boston Bar Association Section on Individual Rights and Responsibilities, and a member of the Steering Committee of the Boston Bar Association Criminal Justice Section. I have been selected for inclusion in *Boston Magazine: Top Ten Massachusetts Super Lawyers*, *Chambers USA: America's Leading Business Lawyers*, *International Who's Who of Business Crime Lawyers*, and *The Best Lawyers in America – Commercial Litigation*. I have given numerous lectures and have authored more than 50 articles. I am a member of the Board of Editors of both the *White Collar Crime Reporter* and *Business Crimes Bulletin: Compliance and Litigation*.

4. I have a wealth of experience and expertise in complex civil litigation, including civil rights litigation such as the trial of *Porter v. Andrea Cabral, Suffolk County Sheriff's Department and Suffolk County*, Civil Action No. 04-11935-DPW and *Cowans v. City of Boston, et al.*, Civil Action No. 05-11574 (RGS), which recently settled for \$3.2 million.

5. At Testa Hurwitz my billing rate was \$525 per hour in 2004 and 2005.

6. I am familiar with the standard hourly rates that Goodwin Procter charges for lawyers and paralegals in the firm. At Goodwin Procter my billing rate was \$640 per hour from

February 2005 through October 2005, \$675 per hour from October 2005 until October 2006, and \$725 from October 2006 until the present. Goodwin Procter bills associates at \$250 per hour to \$525 per hour.

7. I understand that Plaintiff's counsel in this matter is seeking an award of attorneys' fees for representing the prevailing party in this case. I am familiar with this case and with David S. Godkin, counsel for the plaintiff. Mr. Godkin and I were partners at Testa Hurwitz for many years. Mr. Godkin has an established reputation as an outstanding lawyer.

8. It is my understanding that the Plaintiff is requesting an hourly rate of \$390 per hour for Mr. Godkin's services. Based upon my personal knowledge of Mr. Godkin's experience and reputation, and my knowledge of the marketplace, I believe that the hourly rate of \$390 being sought for his services in this case is well below prevailing market rates in this community for lawyers of his skill and experience. I understand that Mr. Godkin's customary hourly rate at Testa, Hurwitz & Thibault, LLP in 2004 and January 2005 was \$550, and that he has substantially discounted his rate since forming his own firm in order to establish the firm. Private law firms in Boston, including Goodwin Procter, would ordinarily charge their clients considerably higher hourly rates for lawyers of comparable experience working on sophisticated litigation in this Court. Similarly, I believe that plaintiff's proposed hourly rates of \$130 - \$205 for associates and \$90-100 for paralegals are reasonable for this case.

9. I understand that Mr. Godkin was co-counsel in this case with Michael T. Kirkpatrick, a staff attorney with Public Citizen Litigation Group in Washington, D.C. since 2004. I understand that Mr. Kirkpatrick has 15 years experience in civil rights litigation, including four years with the Farm Worker Division of Texas Rural Legal Aid, Inc. and nine years with the Civil Rights Division of the DOJ. I believe that the rate of \$375 per hour for

Mr. Kirkpatrick is reasonable in light of his experience and extensive civil rights expertise, and well below the hourly rates charged by attorneys of comparable experience working on complex litigation matters in this Court.

10. In a case like this I believe it would be appropriate to bill for both Mr. Godkin and Mr. Kirkpatrick with associate attorney and paralegal support. I am told, and it appears from the motion, that Mr. Godkin and Mr. Kirkpatrick took care not to duplicate efforts, and have not billed for more than one attorney for most tasks. I would expect any firm handling this case to have both senior attorneys and an associate participate in the trial.

11. I understand that plaintiff is requesting compensation for approximately 1,700 hours in this matter. In my opinion this is a reasonable amount of time in light of the issues raised in this or any other seriously contested civil rights case. I am told that Mr. Godkin and Mr. Kirkpatrick exercised billing judgment and reduced the amount of time billed eliminating from the bill some of the time that they and the associates actually spent on the case. I am familiar with the facts and procedural history of the Cerqueira matter from reviewing the motion, various pleadings and discussions with others about the case. I am aware of the complexities concerning this litigation. I believe that these factors justify granting the plaintiff's Motion for Attorneys' Fees.

Signed under the pains and penalties of perjury this 29th day of January, 2007.

/s/ Joseph F. Savage, Jr.
Joseph F. Savage, Jr.